



5 MAY 2003

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In re Application of

CAPLYGIN

Application No.: 10/018,733

PCT No.: PCT/AU00/00661

Int. Filing Date: 15 June 2000

Priority Date: 15 June 1999

Attorney's Docket No.: 4402-003

For: SYSTEM FOR ENHANCEMENT OF
NEUROLOGICAL PROCESSES

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: DECISION ON PETITION
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: UNDER 37 CFR 1.137(b)
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This decision is in response to applicant's "Petition For Revival of An Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" in the above reference application, filed 11 March 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 18 December 2001, one day after the expiration of the 30 month period, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 31 January 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was erroneously mailed to applicant indicating that an oath or declaration executed by the inventor and the surcharge for filing the oath or declaration after the thirty month period (\$65 for a small entity) was required. The notice set a response deadline of two months from the mail date of the notice or by 31 March 2002. On 28 March 2002, applicant responded to the Notification of Missing Requirements with an executed declaration and \$65 surcharge.

On 10 April 2002, applicant filed a request to correct the filing date of the above referenced U.S. national stage application under 37 CFR 1.10(d).

On 10 July 2002, a Notice of Acceptance (Form PCT/DO/EO/903) was erroneously mailed to applicants.

On 26 February 2003, a decision was mailed to applicant indicating that the application was abandoned for failure to pay the basic national fee by the thirty month deadline.

On 11 March 2003, applicant filed the instant petition to revive the application under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the required reply is the filing of the petition to revive and payment of the basic national fee of \$520, which has been paid. As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

As to Item (2), the appropriate petition fee for petition for revival under 37 CFR 1.137(b) as of January 1, 2003, is \$650 for a small entity as required by 37 CFR 1.17(m). Applicant submitted an insufficient fee in the amount of \$640; the difference of \$10 will be charged to applicant's deposit account per their authorization.

Item (3) is satisfied with applicant's statement that "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional". Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing. The 35 U.S.C. 371 date is **11 March 2003**.

Applicant is advised that effective May 1, 2003, correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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